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of 1940 to be conscientiously opposed to participation in combatant and non-combatant training and service in the land or naval forces of the United States.

2. The Director shall make the necessary assignments to such work, shall determine the agencies, organizations, or individuals that may provide civilian direction thereof, and shall have general supervision and control over such work.

3. To the extent that he may deem necessary to carry out the provisions of this order, the Director may utilize the services of the Departments, officers, and agents of the United States; accept the services of officers and agents of the several states, territories, and the District of Columbia, and the subdivisions thereof; and accept voluntary services of private organizations and individuals; and may obtain, by purchase, loan, or gift, equipment and supplies from Federal and other public agencies and private organizations and individuals, with or without advertising or formal contract.

4. The Director is authorized to prescribe such rules and regulations as may be necessary to carry out the provisions of this order.

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,  
February 6, 1941.

[No. 8675]

[F. R. Doc. 41-933; Filed, February 7, 1941; 11:22 a. m.]

#### Rules, Regulations, Orders

##### TITLE 10—ARMY: WAR DEPARTMENT CHAPTER VII—PERSONNEL

###### PART 73—APPOINTMENT OF COMMISSIONED OFFICERS AND CHAPLAINS<sup>1</sup>

###### § 73.54 Eligibility for appointment. \* \* \*

(b) Appointments will be confined to honor graduates of senior division Reserve Officers' Training Corps units of institutions, other than medical, within the continental United States which offer a college degree upon satisfactory completion of not less than a 4-year college course except as indicated in paragraph (c). The term "honor graduate" will apply to graduates of the institution in the current academic year who are graduates of the Reserve Officers' Training Corps in the current year, citizens of the United States, who have been selected by the president or other head of the institution for scholastic excellence and who have been designated as honor graduates by the professor of military science and tactics as possessing outstanding qualities of leadership, character, and aptitude for military service.

(c) \* \* \*

<sup>1</sup> §§ 73.54 (b) (c) (2) and (d), 73.55 (c) and 73.56 (h) are amended.

(2) Further, that they will graduate in the current academic year from an institution which offers a college degree upon satisfactory completion of not less than a 4-year college course, and that they have been selected by the president or other head of the institution as honor graduates for scholastic excellence.

(d) In order to be eligible for consideration for selection for appointment in the Regular Army, honor graduates must attain the age of 21 years on or before, or within 1 year after, the dates designated by the War Department for appointments to be made in the Regular Army. (41 Stat. 774; 10 U.S.C. 484 amended by Sec. 7, 53 Stat. 555) [Par. 3, AR 605-7, Dec. 31, 1940]

\* \* \* \* \*

§ 73.55 Application. \* \* \*

(c) Rescinded. (41 Stat. 774; 10 U.S.C. 484 amended by Sec. 7, 53 Stat. 555) [Par. 4, AR 605-7, Dec. 31, 1940]

\* \* \* \* \*

§ 73.56 Method of selection. \* \* \*

(h) Candidates selected by the War Department who pass satisfactorily the final physical examination will be tendered appointments as second lieutenants, Regular Army, in the arms designated by the War Department. Date of appointment of those who graduate prior to July 1 will be on or about July 1 of each year if legally eligible for appointment on that date. Date of appointment of those who graduate on or after July 1 but prior to September 1 will be on or about September 1 of each year if legally eligible for appointment on that date. Date of appointment of those who are ineligible for appointment on July 1 or September 1 because they are less than 21 years of age will be the date upon which they become 21 years of age, if otherwise legally eligible for appointment at that time. In case any of these decline appointment, the appointment will be tendered to the next qualified alternate in order of priority indicated in paragraph (f), from the corps area in which the original appointee was selected. (41 Stat. 774; 10 U.S.C. 484 amended by Sec. 7, 53 Stat. 555) [Par. 5, AR 605-7, Dec. 31, 1940]

[SEAL]

E. S. ADAMS,  
Major General,  
The Adjutant General.

[F. R. Doc. 41-933; Filed, February 7, 1941; 9:47 a. m.]

##### TITLE 16—COMMERCIAL PRACTICES CHAPTER I—FEDERAL TRADE COMMISSION

###### PART 2—RULES OF PRACTICE<sup>1</sup>

###### AMENDMENT

Pursuant to the authority contained in sec. 6, 38 Stat. 721; 15 U.S.C. 46, the Commission, on February 4, 1941,

<sup>1</sup> 5 F.R. 2423.

amended §§ 2.20 and 2.21 of its rules of practice to read as follows:

§ 2.20 *Trial examiner's report.* The trial examiner shall, within fifteen (15) days after receipt by him of the complete stenographic transcript of all testimony in a proceeding, make his report upon the evidence.

A copy of such report shall forthwith be served upon each attorney for the Commission, upon each attorney for respondents, and upon each respondent not represented by counsel.

The trial examiner's report is not a report or finding of the Commission. Such report is advisory only and is not binding upon the Commission. (Sec. 6, 38 Stat. 721; 15 U.S.C. 46)

§ 2.21 *Exceptions.* Attorneys or other persons served with a copy of the report of the trial examiner may, within ten (10) days after receipt of such copy of report, file, in writing, their exceptions, if any, to the report.

They shall specify the particular part or parts of the report to which exception is made, and the exceptions shall include any additional facts which the person filing the exception may deem proper.

Citations to the record shall be made in support of the exceptions.

Seven (7) copies of the exceptions, signed, in ink, shall be filed.

A copy of such exceptions shall forthwith be served upon each of the other attorneys and respondents who were served with a copy of the trial examiner's report.

If exceptions are to be argued, they shall be argued at the time of final argument upon the merits. (Sec. 6, 38 Stat. 721; 15 U.S.C. 46)

Promulgated as of this date in pursuance of the action of the Federal Trade Commission under date of February 4, 1941.

By direction of the Commission.

OTIS B. JOHNSON,  
Secretary.

[F. R. Doc. 41-955; Filed, February 7, 1941;  
11:40 a. m.]

**TITLE 26—INTERNAL REVENUE**  
**CHAPTER I—BUREAU OF INTERNAL**  
**REVENUE**

[T.D. 5036]

**PART 30—TIME FOR FILING RETURNS AND**  
**PAYMENT OF TAX UNDER THE EXCESS**  
**PROFITS TAX ACT OF 1940**

**PART 19—INCOME TAX UNDER THE INTERNAL**  
**REVENUE CODE**

**REGULATIONS PRESCRIBED UNDER THE SECOND**  
**REVENUE ACT OF 1940 WITH RESPECT TO**  
**PERSONAL SERVICE CORPORATIONS**

By reason of the enactment of the Second Revenue Act of 1940 (Public, No. 801, 76th Cong., 3d sess.), approved October 8, 1940:

**PARAGRAPH 1.** The following regulations with respect to personal service corporations are prescribed under Title II of such Act, relating to the excess profits tax:

**SEC. 725. PERSONAL SERVICE CORPORATIONS.**  
(SECOND REVENUE ACT OF 1940.)

(a) *Definition.*—As used in this subchapter, the term "personal service corporation" means a corporation whose income is to be ascribed primarily to the activities of shareholders who are regularly engaged in the active conduct of the affairs of the corporation and are the owners at all times during the taxable year of at least 70 per centum in value of each class of stock of the corporation, and in which capital is not a material income-producing factor; but does not include any foreign corporation, nor any corporation 50 per centum or more of whose gross income consists of gains, profits, or income derived from trading as a principal. For the purposes of this subsection, an individual shall be considered as owning, at any time, the stock owned at such time by his spouse or minor child or by any guardian or trustee representing them.

(b) *Election as to Taxability.*—If a personal service corporation signifies, in its return under Chapter 1 for any taxable year, its desire not to be subject to the tax imposed under this subchapter for such taxable year, it shall be exempt from such tax for such year, and the provisions of Supplement S of Chapter 1 shall apply to the shareholders in such corporation who were such shareholders on the last day of such taxable year of the corporation.

**§ 30.725-1 Taxation of personal service corporations.** A personal service corporation is subject to the excess profits tax imposed under subchapter E of chapter 2 the same as any other domestic corporation unless it elects as to any taxable year not to be subject to such tax. If the corporation elects not to be subject to the excess profits tax, the provisions of Supplement S (sections 391 to 396, inclusive, as added by section 502 of the Second Revenue Act of 1940) shall apply to the shareholders in such corporation who were such shareholders on the last day of the taxable year of the corporation. See § 19.394-1 of Regulations 103.<sup>1</sup> In such case, the amount of the undistributed Supplement S net income shall be considered as paid in to the corporation as of the close of the taxable year as paid-in surplus or as a contribution to capital, and the amount of accumulated earnings and profits as of the close of such year shall be correspondingly reduced. See section 394 (d). (Sec. 62, 53 Stat. 32, 26 U.S.C., Sup., 62; secs. 725, 729, Public, No. 801, 76th Cong., 3d sess.)

**§ 30.725-2 Definition of personal service corporation.**—(a) *In general.* The term "personal service corporation" means a domestic corporation in which capital is not a material income-producing factor and the income of which is to be ascribed primarily to the activities of shareholders who (1) are regularly engaged in the active conduct of the affairs of the corporation, and (2) are the owners, throughout the entire taxable year, of at least 70 percent in value of each class of stock of the corporation.

If 50 percent or more of the gross income of a corporation consists of gains,

profits, or income derived from trading as a principal, such corporation cannot be considered to be a personal service corporation. As to corporations in which less than 50 percent of the gross income is derived from trading as a principal, see (c) below.

(b) *Stock interest of shareholders.* Shareholders regularly engaged in the active conduct of the affairs of the corporation and to whom the income of the corporation is primarily to be ascribed must own at all times during the taxable year at least 70 percent in value of each class of stock of the corporation. If stock is owned by the spouse or minor child of an individual, or owned by the guardian or trustee of such spouse or child, such stock is treated as being owned by such individual.

A corporation cannot be considered to be a personal service corporation for any taxable year if another corporation owns more than 30 percent in value of any class of its stock at any time during such year. A corporation is an artificial entity and cannot itself be regularly engaged in the active conduct of the affairs of another corporation within the meaning of section 725.

The fact that the ownership of shares in the corporation may change during the course of the taxable year does not take the corporation which is otherwise a personal service corporation out of that class unless at some time during the taxable year the ownership of more than 30 percent in value of the shares of any class of stock passes into the hands of persons not regularly engaged in the active conduct of the affairs of the corporation.

(c) *Income to be ascribed primarily to the activities of shareholders.* If employees other than shareholders contribute substantially to the services rendered by a corporation, such corporation is not a personal service corporation unless, in every case in which services are so rendered, the value of and the compensation charged for such services are to be attributed primarily to the experience or skill of the shareholders and such fact is evidenced in some definite manner in the normal course of the business or profession. The fact that the shareholders give personal attention or render valuable services to the corporation as a result of which its earnings are greater than those of a corporation engaged in a like or similar business or profession, the shareholders of which are not regularly engaged in the activities of the corporation, does not of itself constitute the corporation a personal service corporation.

Income of a corporation from merchandising or trading as a principal, directly or indirectly, in commodities or in the services of others is not to be ascribed primarily to the activities of its shareholders. Income of a corporation from the conduct of an auction, agency, brokerage, or commission business strictly on the basis of a fee or commis-

<sup>1</sup> 5 F.R. 348, 437, 569.

sion may be so ascribed. If, however, either as a matter of business policy or by contract, the corporation assumes any such risks as those of market fluctuations, bad debts, or failure to accept shipments, or if it guarantees the accounts of the purchaser or is in any way accountable to the seller for the payment of the purchase price, the transaction is one of merchandising or trading, and this is true even though the goods are shipped directly from the producer to the consumer and are never actually in the possession of the corporation. The fact that earnings of the corporation are termed commissions or fees is not controlling. The fact that a commission or fee in a transaction is based on a difference in the prices at which the seller sells and the buyer buys raises a presumption that the transaction is one of merchandising or trading, and it will be so considered in the absence of satisfactory evidence to the contrary.

It may happen that a corporation is engaged in two or more businesses or professions which are more or less related. Thus, an engineering concern may also engage in contracting, which amounts to trading in materials and labor, or a brokerage concern may guarantee some of its accounts, or a photographic concern may sell pictures, frames, art goods, and supplies. In such cases, the corporation is not a personal service corporation unless the activities of the corporation consisting of trading or guaranteeing of accounts or selling are negligible or merely incidental, and unless no appreciable part of the earnings is to be ascribed to such activities. See also (e) below relating to the employment of capital.

(d) *Shareholders regularly engaged in the active conduct of the affairs of the corporation.* A corporation is not a personal service corporation unless shareholders who own at all times during the taxable year at least 70 percent in value of each class of stock are regularly engaged in the active conduct of the affairs of the corporation. That such shareholders devote some of their time to the affairs of the corporation is not sufficient; they must with regularity devote substantial time and energy to the conduct of its affairs.

(e) *Capital as a material income-producing factor.* In a personal service corporation capital must not be a material income-producing factor. Whether capital is a material income-producing factor is to be determined by reference to (1) the extent to which capital is required to carry on the business or profession, and (2) the extent to which capital is actually used in the production of income though not required by the primary activities of the corporation. If the use of capital is necessary to the production of the income of the corporation and is more than incidental, capital is a material income-producing factor and the corporation is not a personal service corporation. If a substan-

tial portion of the income is attributable to a use of capital, whether or not connected with the primary activities of the corporation, capital is a material income-producing factor even though such use of capital is not necessary to such primary activities. The term "capital" as used in section 725 and in this section means not only capital actually invested by the shareholders but also capital obtained in other ways. Thus, capital may be borrowed either directly as shown by bonds, debentures, certificates of indebtedness, notes, bills payable, or other paper, or indirectly as shown by accounts payable or other forms of credit, or the business of the corporation may be financed in some other manner by its shareholders. If a substantial amount of capital is used to finance or carry the accounts of clients or customers, it will be inferred that because of competition or for other reasons such use of capital is necessary and more than incidental in order to secure or hold business which would otherwise be lost. If a corporation engaged in an agency, brokerage, or commission business regularly employs a substantial amount of capital to lend to its principals, to buy and carry goods on its own account, or to buy and carry odd lots in order that it may render more satisfactory service to its principals or customers, such corporation is not a personal service corporation. In general, the larger the amount of capital actually used the stronger is the evidence that capital is necessary and more than incidental and is a material income-producing factor.

The term "income" as used in section 725 and in this section means gross income. Capital is a material income-producing factor if its use results in a substantial amount of gross income, irrespective of the amount of net income, if any, such use produces.

(f) *Application of regulations; returns.* No definite and conclusive tests can be prescribed by which it can be finally determined in advance of an examination of the corporation's income tax return whether it is or is not a personal service corporation. In the preceding subsections are set forth the general principles under which such determination will be made.

If a corporation claiming to be a personal service corporation signifies in its return under chapter 1 for any taxable year its desire not to be subject to the excess profits tax under subchapter E of chapter 2 for such taxable year, it shall attach Form 1121PS, in duplicate, to its income tax return on Form 1120. In Form 1121PS there shall be stated (1) such facts as tend to show whether or not the corporation is a personal service corporation, including (i) the nature of its business, (ii) the character, preferences, dividend rates, and other essential features of the various classes of its stock outstanding for any time during the taxable year, (iii) the names and addresses of its several shareholders and

their relationship to each other, (iv) the number and classes of shares owned at any time during the taxable year by each shareholder and the portion of the year during which such shares were so owned, (v) the nature of the activities of the several shareholders on behalf of the corporation, and (vi) the extent to which capital in any form is used in the business, and (2) the computation of the undistributed Supplement S net income for the taxable year, the names and addresses of all shareholders of the corporation at the close of the taxable year, the number and classes of shares held by each, and such other information as may be required by the form and the instructions printed on the form or issued therewith. (Sec. 62, 53 Stat. 32, 26 U.S.C., Sup., 62; secs. 725, 729, Public, No. 801, 76th Cong., 3d sess.)

§ 30.725-3 *Election as to taxability.* The election as to taxability provided for in section 725 (b) and the resulting exemption from tax have application only to the excess profits tax on domestic corporations imposed under subchapter E of chapter 2 as added by section 201 of the Second Revenue Act of 1940. The corporation may make such an election by signifying in its return under chapter 1 its desire not to be subject to the excess profits tax. A new election is required for each taxable year. An amended return filed after the statutory period for filing the return (or after the last day of any extension period) is not a return within the meaning of section 725 (b).

A domestic corporation which elects in its income tax return for a taxable year to be exempt from the excess profits tax for such year as a personal service corporation, may, notwithstanding such election, file an excess profits tax return for such taxable year on Form 1121. Such return shall be complete in all respects except for the computation of the tax, and there shall be attached to it a statement that the corporation desires to be classified as a personal service corporation and not to be subject to the excess profits tax for the taxable year and that it has attached Form 1121PS in duplicate to its income tax return on Form 1120. An excess profits tax return made in this manner within the time prescribed by law will constitute a return within the meaning of section 712 (a). In the case of a domestic corporation which files such a return electing therein as provided in section 712 (a) or section 741 to compute its excess profits credit for such taxable year under section 713 or section 714 and which is subsequently determined not to be a personal service corporation, the amount of excess profits tax for such year shall be determined by the Commissioner in accordance with the election so made by the corporation with respect to the computation of its excess profits credit, and the excess profits tax so determined will constitute a deficiency which shall be assessed and collected in the same manner as in the case of a deficiency in income tax under

chapter 1. A corporation not filing an excess profits tax return for a taxable year within the time prescribed by law may not in any case elect to have the excess profits credit for such taxable year computed under section 713. The allowance of a credit or refund of any income tax overpaid by the shareholders of a corporation denied personal service classification is subject to the limitations provided in section 322. (Sec. 62, 53 Stat. 32, 26 U.S.C., Sup., 62; secs. 725, 729, Public, No. 801, 76th Cong., 3d sess.)

PAR. 2. Part 19, Title 26, Code of Federal Regulations, 1940 Sup. [Regulations 103] are amended as follows:

(A) The following is inserted immediately after § 19.373-1:

SEC. 502. TAX OF SHAREHOLDERS OF PERSONAL SERVICE CORPORATIONS. (SECOND REVENUE ACT OF 1940)

The Internal Revenue Code is amended by inserting after section 373 the following new Supplement:

Supplement S—Tax of Shareholders of Personal Service Corporations.

SEC. 391. APPLICABILITY OF SUPPLEMENT.

If a personal service corporation (as defined in section 725) is exempt under such section for any taxable year from the excess profits tax imposed by such subchapter, the provisions of this Supplement shall be applicable with respect to each shareholder of such corporation who was a shareholder in such corporation on the last day of such taxable year of the corporation.

§ 19.391-1 *Applicability of Supplement S.* If a personal service corporation (as defined in section 725 and the regulations thereunder) elects not to be subject to the excess profits tax for any taxable year, then sections 391 to 396, as added by section 502 of the Second Revenue Act of 1940, shall be applicable with respect to each person who was a shareholder of such corporation at the close of the taxable year of the corporation. (See section 725 (b))

SEC. 392. UNDISTRIBUTED SUPPLEMENT S NET INCOME.

For the purposes of this chapter, the term "undistributed Supplement S net income" means the Supplement S net income (as defined in section 393) minus the amount of the dividends paid during the taxable year. For the purposes of this section the amount of dividends paid shall be computed in the same manner as provided in subsections (d), (e), (f), (g), (h), and (i) of section 27 for the purpose of the basic surtax credit provided in section 27.

§ 19.392-1 *Undistributed Supplement S net income.* The term "undistributed Supplement S net income" means Supplement S net income (as defined in section 393) minus the amount of dividends paid by the corporation during the taxable year. For the method of computing dividends paid, see subsections (d), (e), (f), (g), (h), and (i) of section 27 and the regulations thereunder.

SEC. 393. SUPPLEMENT S NET INCOME.

For the purposes of this chapter "Supplement S net income" means the net income, except that there shall be allowed as additional deductions—

(a) The Federal income tax payable under this chapter for the taxable year; and

(b) In lieu of the deduction allowed by section 23 (q), contributions or gifts, payment of which is made within the taxable year, to or for the use of donees described in section 23 (q) for the purposes therein specified, to

an amount which does not exceed 15 percent of the corporation's net income, computed without the benefit of this subsection and section 23 (q).

§ 19.393-1 *Supplement S net income.* The term "Supplement S net income" means the net income as defined in section 21, but computed without the deduction allowed under section 23 (q), minus the sum of the following:

(a) The Federal income tax payable under chapter 1 for the taxable year; and

(b) The amount of contributions or gifts made to or for the use of donees described in section 23 (q) for the purposes therein specified, to an amount which does not exceed 15 percent of the net income of the corporation computed without the benefit of sections 23 (q) and 393 (b).

The deductions allowed under section 393 for contributions or gifts made to or for the use of donees described in section 23 (q) are in lieu of deductions otherwise allowable under section 23 (q) and are allowable only for the taxable year in which such contributions or gifts are actually paid, regardless of when pledged and regardless of the method of accounting employed by the corporation in keeping its books and records.

The provisions of the last two paragraphs of § 19.23 (o)-1 relating to (1) the statement in returns of the name and address of each organization to which a contribution or gift was made and the amount and the approximate date of the actual payment of the contribution or gift, (2) the substantiation of the claims for deductions when required by the Commissioner, and (3) the basis for calculation of the amount of a contribution or gift which is other than money, are equally applicable to claims for deductions of amounts of contributions or gifts by corporations under section 393.

The method of computing Supplement S net income may be illustrated by the following example:

*Example:* The X Corporation, a personal service corporation, has for the calendar year 1940 a net income, as computed under chapter 1, of \$190,000. The Federal income tax payable under chapter 1 for that year amounts to \$45,600. Contributions or gifts payment of which is made during the taxable year to or for the use of donees described in section 23 (q) for the purposes therein specified amount to \$35,000. The Supplement S net income of the corporation is \$124,400, computed as follows:

Net income under chapter 1.....	\$190,000
Add: Contributions deductible in computing net income under section 21.....	10,000
Net income computed without the benefit of any deduction for contributions.....	200,000
Less: Federal income tax.....	\$45,600
Contributions deductible under section 393 (b).....	
(15 percent of \$200,000).....	30,000
	75,600
Supplement S net income.....	124,400

SEC. 394. CORPORATION INCOME TAXED TO SHAREHOLDERS.

(a) *General rule.* The undistributed Supplement S net income of a personal service corporation shall be included in the gross income of the shareholders in the manner and to the extent set forth in this Supplement.

(b) *Amount included in gross income.* Each shareholder who, on the last day of the taxable year of the corporation, was a shareholder in such corporation shall include in his gross income, as a dividend, for the taxable year in which or with which the taxable year of the corporation ends, the amount he would have received as a dividend if on such last day there had been distributed by the corporation, and received by the shareholders, an amount equal to the undistributed Supplement S net income of the corporation for its taxable year.

(c) *Credit for obligations of the United States and its instrumentalities.* Each such shareholder shall be allowed a credit against net income, for the purposes of the tax imposed by section 11, 13, 14, 201, 204, 207, or 362, of his proportionate share of the interest specified in section 25 (a) (1) or (2) which is included in the gross income of the corporation.

(d) *Effect on capital account of personal service corporation.* An amount equal to the undistributed Supplement S net income of the personal service corporation for its taxable year shall be considered as paid in as of the close of such taxable year as paid-in surplus or as a contribution to capital, and the accumulated earnings and profits as of the close of such taxable year shall be correspondingly reduced, if such amount or any portion thereof is required to be included as a dividend in the gross income of the shareholders.

(e) *Basis of stock in hands of shareholders.* The amount required to be included in the gross income of the shareholder under subsection (b) shall, for the purpose of adjusting the basis of his stock with respect to which the distribution would have been made (if it had been made), be treated as having been reinvested by the shareholder as a contribution to the capital of the corporation; but only to the extent to which such amount is included in his gross income in his return, increased or decreased by any adjustment of such amount in the last determination of the shareholder's tax liability, made before the expiration of seven years after the date prescribed by law for filing the return.

(f) *Period of limitation on assessment and collection.* For period of limitation on assessment and collection without assessment, in the case of failure to include in gross income the amount properly includable thereunder under subsection (b), see section 275 (d).

§ 19.394-1 *Taxability of shareholders.* If, by reason of an election under section 725, a personal service corporation is exempt for any taxable year from the excess profits tax imposed under subchapter E of chapter 2, the undistributed Supplement S net income of the corporation shall be treated as a dividend received by those who, at the close of the taxable year of the corporation, were the shareholders of the corporation and as such would have been entitled to receive such income as a dividend had it been distributed at that time. Each such shareholder for his taxable year in which or with which the taxable year of the corporation ends, shall include in his gross income his proportionate share of such undistributed Supplement S net income as though such proportionate share had been received as a dividend on the last day of the taxable year of the corporation. Such amount is to be determined by reference to the interest of the shareholder

in the corporation, that is, by reference to the number of shares of stock owned and the relative rights of each class of stock if there are several classes of stock outstanding. Thus, if a personal service corporation has both common and preferred stock outstanding and the preferred shareholders are entitled to a specified dividend before any distribution may be made to the holders of the common stock, then the assumed distribution of the undistributed Supplement S net income must first be treated as a payment of the specified dividend on the preferred stock before any part may be allocated as a dividend on the common stock.

**§ 19.394-2 Credit for interest on obligations of the United States and its instrumentalities.** Each shareholder of a personal service corporation who as of the last day of the taxable year of the corporation is required to include in his gross income his proportionate share of the undistributed Supplement S net income of the corporation shall, for the purposes of the tax imposed by section 11 (normal income tax), section 13 (tax on corporations in general), section 14 (tax on special classes of corporations), section 201 (tax on life insurance companies), section 204 (tax on insurance companies other than life or mutual), section 207 (tax on mutual insurance companies other than life), or section 362 (tax on mutual investment companies), be allowed a credit against net income of his proportionate share of the interest specified in section 25 (a) (1), interest on United States obligations, or section 25 (a) (2), interest on obligations of instrumentalities of the United States, which is included in the gross income of the corporation.

**§ 19.394-3 Effect on capital account of personal service corporation.** If the undistributed Supplement S net income of a personal service corporation, or any portion thereof, for any taxable year is required to be included in the gross income of the shareholders, such undistributed Supplement S net income shall, for income tax and excess profits tax purposes, be treated as paid-in surplus or as a contribution to capital, paid in as of the close of such taxable year and the accumulated earnings and profits of the corporation shall be correspondingly reduced.

**§ 19.394-4 Basis of stock in hands of shareholders.** If a shareholder of a personal service corporation is required to include in his gross income his proportionate part of the undistributed Supplement S net income of the corporation, the amount so included shall, for the purpose of adjusting the basis of his stock with respect to such proportionate part, be treated as a distribution actually made by the corporation and as a reinvestment in the corporation by the shareholder. It shall, however, be so treated only to the extent to which such amount is included in the return of the shareholder, increased or decreased by any adjustment of such amount in the last determination

of the tax liability of the shareholder made before the expiration of seven years after the date prescribed by law for the filing of his return.

**SEC. 395. NONRESIDENT ALIEN INDIVIDUALS AND FOREIGN CORPORATIONS.**

In the case of a shareholder taxable under section 211 (a) or 231 (a), his distributive share of the undistributed Supplement S net income of the corporation required to be included in the gross income shall be considered as a dividend received by him from sources within the United States.

**SEC. 396. SHAREHOLDER'S TAX PAID BY CORPORATION.**

If a personal service corporation is exempt for any taxable year under section 725 from excess profits tax, it shall, at the time of filing its return, pay to the collector an amount equal to the amount that would be required by section 143 (b) or section 144 to be deducted and withheld by the corporation if any amount required by this Supplement to be included in the gross income of the shareholder had been, on the last day of the taxable year of the corporation, paid to the shareholder in cash as a dividend. Such amount shall be collected and paid in the same manner as the amount of tax due in excess of that shown by the taxpayer upon a return in the case of a mathematical error appearing on the face of the return.

**§ 19.396-1 Tax of certain shareholders paid by the corporation.** Since a shareholder's proportionate share of the undistributed Supplement S net income of a corporation electing not to be subject to the excess profits tax is taxable to such shareholder, the corporation is required, at the time of filing its income tax return under chapter 1, to pay to the collector an amount equal to the amount that would be required by section 143 (b) or section 144 to be deducted and withheld by the corporation had its undistributed Supplement S net income been actually paid in cash to its shareholders as a dividend on the last day of its taxable year.

(B) The following is inserted immediately after section 275:

**SEC. 503. STATUTE OF LIMITATIONS IN CASE OF CONSTRUCTIVE DIVIDENDS. (SECOND REVENUE ACT OF 1940.)**

Section 275 (d) of the Internal Revenue Code (relating to statute of limitations) is amended to read as follows:

(d) *Constructive dividends.*—If the taxpayer omits from gross income an amount properly includible therein—

(1) *Foreign personal-holding companies.*—Under section 337 (b) (relating to the inclusion in the gross income of United States shareholders of their distributive shares of the undistributed Supplement P net income of a foreign personal-holding company); or

(2) *Personal service corporations.*—Under section 394 (b) (relating to the inclusion in the gross income of shareholders of their distributive shares of undistributed Supplement S net income of a personal service corporation);

the tax may be assessed, or a proceeding in court for the collection of such tax may be begun without assessment, at any time within seven years after the return was filed.

(C) Section 19.275-1 (8) is amended to read as follows:

\* \* \* \* \*

(6) If the taxpayer omits from gross income an amount properly includible therein under section 337 (b) as his distributive share of the undistributed Supplement P net income of a foreign per-

sonal holding company (see sections 331 to 340, inclusive), or an amount properly includible therein under section 394 (b) as his distributive share of the Supplement S net income of a personal service corporation (see sections 391 to 396, inclusive) the tax may be assessed at any time within seven years after the return was filed.

(D) The following is inserted immediately after section 216:

**SEC. 504. CREDIT OF NONRESIDENT ALIEN OF TAX AS SHAREHOLDER IN PERSONAL SERVICE CORPORATION. (SECOND REVENUE ACT OF 1940.)**

Section 216 of the Internal Revenue Code (relating to credit against tax of a nonresident alien individual) is amended by adding at the end thereof a new sentence to read as follows: "A nonresident alien individual shall be allowed as a credit against his tax the amount required by section 396 to be paid by the personal service corporation of which he is a shareholder with respect to his tax liability under Supplement S."

(E) The following is inserted immediately after section 234:

**SEC. 505. CREDIT OF FOREIGN CORPORATION OF TAX AS SHAREHOLDER IN PERSONAL SERVICE CORPORATION. (SECOND REVENUE ACT OF 1940.)**

Section 234 of the Internal Revenue Code (relating to credits against tax of foreign corporations) is amended by adding at the end thereof a new section to read as follows:

"A foreign corporation shall be allowed as a credit against its tax the amount required by section 396 to be paid by the personal service corporation of which it is a shareholder with respect to its tax liability under Supplement S."

Paragraph 2 of this Treasury decision is issued under the authority contained in sections 502-505 of the Second Revenue Act of 1940 (Public, No. 801, 76th Cong., 3d sess.), and section 62 of the Internal Revenue Code, 53 Stat. 32.)

[SEAL] GUY T. HELVERING,  
Commissioner of Internal Revenue.

Approved: February 5, 1941.

JOHN L. SULLIVAN,  
Acting Secretary of the Treasury.

[F. R. Doc. 41-928; Filed, February 6, 1941;  
3:32 p. m.]

**TITLE 30—MINERAL RESOURCES  
CHAPTER III—BITUMINOUS COAL  
DIVISION**

[Docket No. A-511]

**PART 322—MINIMUM PRICE SCHEDULE,  
DISTRICT NO. 2**

**ORDER GRANTING TEMPORARY RELIEF AND  
CONDITIONALLY PROVIDING FOR FINAL  
RELIEF IN THE MATTER OF THE PETITION  
OF DISTRICT BOARD 2 FOR THE ESTABLISH-  
MENT OF PRICE CLASSIFICATIONS AND  
MINIMUM PRICES FOR THE COALS OF  
CERTAIN MINES IN DISTRICT NO. 2 NOT  
HERETOFORE CLASSIFIED AND PRICED**

A petition pursuant to section 4 II (d) of the Bituminous Coal Act of 1937 having been filed with this Division by the above named party, requesting the establishment of price classifications and

minimum prices for the coals of certain mines in District No. 2 not heretofore classified and priced; and

The Director having fully considered said petition and the data in support thereof,

Now, therefore, it is ordered, That a reasonable showing of the necessity therefor having been made, pending final disposition of the petition in the above entitled matter, temporary relief be, and it hereby is, granted as follows: Commencing forthwith, § 322.7 is amended by adding thereto the supplement dated January 31, 1941, and § 322.23 is amended by adding thereto the supplement dated January 31, 1941, which supplements are hereinafter set forth.

Note: The material contained in this Temporary Supplement is to be read in the light of the classifications, prices, instructions, exceptions and other provisions contained in Part 322, Minimum Price Schedule for District No. 2 and Supplements thereto.

#### TEMPORARY SUPPLEMENT—TEMPORARY EFFECTIVE MINIMUM PRICES

FOR ALL SHIPMENTS, EXCEPT TRUCK

#### § 322.7 Alphabetical list of code members

[Alphabetical listing of code members having railway loading facilities, showing price classification by size group numbers]

Mine index number	Code member	Mine name	Sub-district number	Seam	Size group Nos.													
					Freight origin group No.	1	2	3	4	5	6	7	8	9	10	11	12	
325	Abruzzi, Louis	Brinerton (Strip) (R)	7	Pittsburgh	75													
325	Cowan Mining Company	Cowan #1 (Strip)	1	L. Freeport	15													
158	Culmerville Coal Co.	Minnum No. 3	8	T. Freeport														
244	Daugherty Coal Co. (H. C. Daugherty)	Wilson	9	Pittsburgh	41													
74	Davidson-Connellville Coal & Coke Company	Frederick #1	3	Pittsburgh	74													
326	East Franklin Coal Co.	Rose (Strip)	8	Pittsburgh	80	F	F	E	E	E	E	E	E	E	E	E	E	
1304	Edie Bros.	Edie No. 1	2	U. Freeport	41	E	E	D	D	D	D	D	D	D	D	D	D	
327	Edie Bros.	Edie No. 2	2	U. Freeport	79													
328	Haas, William	Sterling No. 2	3	Pittsburgh	117													
859	Hecla Coal & Coke Co.	Griffin No. 2	3	Pittsburgh	30	F	F	E	E	E	E	E	E	F	F	F	F	
859	Hockenberry, C. E.	Hockenberry	1	Kittanning	25	F	F	E	E	E	E	E	E	F	F	F	F	
361	Hoffstot, J. G.	LaBella	3	Pittsburgh	30	E	E	D	D	E	E	E	E	E	E	E	E	
360	Jay-Bee Coal Co. (C. W. Johnson)	No. 79 (Strip)	3	Pittsburgh	114													
372	Jay-Bee Coal Co. (C. W. Johnson)	No. 79	3	Pittsburgh	114													
374	Jay-Bee Coal Co. (C. W. Johnson)	No. 110	3	Pittsburgh	114													
381	K. D. K. A. Coal Co. (George Batcher)	Star	8	Freeport	41	E	E	D	D	D	D	D	D	D	D	D	D	
180	Poland Coal Co.	Poland No. 3	3	Pittsburgh	30													
307	Reynolds, Earl F. (Reynolds Coal Co.)	Culmerville #4 (Strip)	8	Freeport	41													
370	Ritchey & Boggs	Hill	7	Pittsburgh	72	D	D	C	C	F	F	G	G	A	B	B	B	
322	Saxonburg Coal Co.	Staley	8	Freeport	41	E	E	D	D	D	D	D	D	A	A	A	A	
158	Trube City Collieries Co.	Hubbard	8	Freeport	83	F	F	E	E	E	E	E	E	E	E	E	E	
383	Unity Coal Co. (O. F. Freeman)	Beatty	4	Pittsburgh	70	F	F	C	C	D	D	D	D	A	A	A	A	
2000	Warner Bros.	Warner (Strip)	9	Pittsburgh	76	D	D	C	C	G	G	G	G	D	D	D	D	

Note: In the price schedule, add the mine index numbers in groups shown, Group No. 2, 375, 376, 2000, Group No. 6: 372, 374, 378, 380. Group No. 7: 361. Group No. 9: 376, 377, 381, 382, 384. Group No. 15: 389. All mines in Freight Origin Group No. 117 will take the same necessary or permissible adjustments as Freight Origin Groups Nos. 30 and 31.

§ 322.23 General prices  
PRICES IN CENTS PER NET TON FOR SHIPMENT INTO ALL MARKET AREAS

Base sizes											
Code member index		Mine		Mine index No.		Code member index		Mine		Mine index No.	
Mine	Seam	Mine	Seam	Mine	Seam	Mine	Seam	Mine	Seam	Mine	Seam
1	2	3	4	5	6	7	8	9	10	11	12
1	2	3	4	5	6	7	8	9	10	11	12
FAYETTE COUNTY—con.											
Jay-Bee Coal Company (C. W. Johnson).	374	#119...	Pittsburgh...	290	280	270	260	230	220	215	205
Jay-Bee Coal Company (C. W. Johnson).	372	#79...	Pittsburgh...	290	280	270	260	230	220	215	205
Lewis, Charles E.	1980	Zimmerli, E.	Pittsburgh...	300	290	280	260	230	220	215	205
Zimmerli, E.	2009		Freight...	245	255	245	235	215	205	190	185
GREENE COUNTY											
Dove, Joseph A.	2001	Dove...	Pittsburgh...	275	265	255	245	220	210	205	190
Fox, Ernest J.	1984	Strohmeier...	Pittsburgh...	235	235	215	205	200	190	180	165
Grover, J. E.	2008	Turner...	Pittsburgh...	235	235	215	205	200	190	180	150
Leach & Centeniali (Frank	1991	Leota #1...	Pittsburgh...	235	235	215	205	200	190	180	150
P. Centeniali.			Pittsburgh...	265	265	245	235	215	205	190	160
Rich, D. C.	1978	Cruddie, S. D.	Pittsburgh...	265	265	245	235	215	205	200	180
Thomas, John S.	2013	Thomas...	Pittsburgh...	265	265	245	235	215	205	200	180
VENANGO COUNTY											
Glenn, J. Alts...	1962	Glenn...	Kittanning...	325	305	285	265	260	245	235	200
WASHINGTON COUNTY											
Funari, Joe...	1983	Vesta #6	Pittsburgh...	310	300	290	260	250	235	225	195
Funari, Joe...	1963	State	Pittsburgh...	310	300	290	260	250	235	225	170
Ten Mile Coal Company (Charles P. Keys).		Drump...	Pittsburgh...	310	300	290	260	250	235	225	195
WESTMORELAND COUNTY											
Anderson, Raymond L.	2003	Williams...	Redstone...	275	265	255	230	215	215	210	180
Audoley, Tony & John	1971	Dunlap...	Pittsburgh...	280	270	260	230	220	215	210	185
Baird & Mattewes (C. D.	2022	Andrew...	Pittsburgh...	280	270	260	245	230	215	210	185
Baird.			Pittsburgh...	280	270	260	245	230	215	210	185
Beck, Bernard...	1969	Hilltop...	Pittsburgh...	280	270	260	245	230	215	210	185
Bieley Coal Co. (Joseph H.	1964	Emble...	Pittsburgh...	280	270	260	245	230	215	210	185
Cunningham, Jas. E.	2023	Cunningham...	Pittsburgh...	275	265	255	235	220	215	210	185
Guaratotti, Tony...	2017	Hutchinson, Clarence W.	Pittsburgh...	280	270	260	245	230	220	215	185
Kopple, A. S. K. Mine...	1982	Glachot's...	Pittsburgh...	280	270	260	245	230	220	215	185
L. & S. Coal Co. (Geo. W.	1967	L. & S....	Pittsburgh...	280	270	260	245	230	220	215	185
Madden & Hayes, Q. R.	2009	M. & H....	Pittsburgh...	290	280	270	250	230	220	215	185
Robb & Boggio (Walter	2012	Robb & Boggio...	Pittsburgh...	280	270	260	245	230	220	215	185
Robb.			Pittsburgh...	280	270	260	245	230	220	215	185
BUTLER COUNTY											
Anderson, J. O.	2020	Anderson...	Pittsburgh...	290	280	270	250	230	215	210	185
Clemens, Edgar & Rich-	1854	Clemens...	Pittsburgh...	300	290	280	260	240	220	210	185
ard.			Pittsburgh...	300	290	280	260	240	220	210	185
Cole, Merle E.	1963	Oliphant...	Pittsburgh...	290	280	270	250	230	215	210	185
Fress & Sowers...	327	No. 2...	Pittsburgh...	290	280	270	250	230	215	210	185
Haas, William...	2021	Sterling #2...	Pittsburgh...	280	270	260	245	225	210	210	185

[F. R. Doc. 41-925; Filed, February 6, 1941; 11:46 a. m.]

Base sizes											
Code member index		Mine		Mine index No.		Code member index		Mine		Mine index No.	
Mine	Seam	Mine	Seam	Mine	Seam	Mine	Seam	Mine	Seam	Mine	Seam
1	2	3	4	5	6	7	8	9	10	11	12
1	2	3	4	5	6	7	8	9	10	11	12
FAYETTE COUNTY											
Jay-Bee Coal Company (C. W. Johnson).	374	#119...	Pittsburgh...	290	280	270	260	230	220	215	205
Jay-Bee Coal Company (C. W. Johnson).	372	#79...	Pittsburgh...	290	280	270	260	230	220	215	205
Lewis, Charles E.	1980	Zimmerli, E.	Pittsburgh...	300	290	280	260	230	220	215	205
Zimmerli, E.	2009		Freight...	245	255	245	235	215	205	190	185
GREENE COUNTY											
Dove, Joseph A.	2001	Dove...	Pittsburgh...	275	265	255	245	220	210	205	190
Fox, Ernest J.	1984	Strohmeier...	Pittsburgh...	235	235	215	205	200	190	180	165
Grover, J. E.	2008	Turner...	Pittsburgh...	235	235	215	205	200	190	180	160
Leach & Centeniali (Frank	1991	Leota #1...	Pittsburgh...	235	235	215	205	200	190	180	160
P. Centeniali.			Pittsburgh...	265	265	245	235	215	205	190	160
Rich, D. C.	1978	Cruddie, S. D.	Pittsburgh...	265	265	245	235	215	205	200	180
Thomas, John S.	2013	Thomas...	Pittsburgh...	265	265	245	235	215	205	200	180
VENANGO COUNTY											
Glenn, J. Alts...	1962	Glenn...	Kittanning...	325	305	285	265	260	245	235	200
WASHINGTON COUNTY											
Glenn, J. Alts...	1962	Glenn...	Kittanning...	325	305	285	265	260	245	235	200
WESTMORELAND COUNTY											
Funari, Joe...	1983	Vesta #6	Pittsburgh...	310	300	290	260	250	235	225	195
Funari, Joe...	1963	State	Pittsburgh...	310	300	290	260	250	235	225	195
Ten Mile Coal Company (Charles P. Keys).		Drump...	Pittsburgh...	310	300	290	260	250	235	225	195
BUTLER COUNTY											
Anderson, Raymond L.	2003	Williams...	Redstone...	275	265	255	230	215	215	210	180
Audoley, Tony & John	1971	Dunlap...	Pittsburgh...	280	270	260	245	230	220	215	185
Baird & Mattewes (C. D.	2022	Andrew...	Pittsburgh...	280	270	260	245	230	220	215	185
Baird.			Pittsburgh...	280	270	260	245	230	220	215	185
Beck, Bernard...	1969	Hilltop...	Pittsburgh...	280	270	260	245	230	215	210	185
Bieley Coal Co. (Joseph H.	1964	Emble...	Pittsburgh...	280	270	260	245	230	215	210	185
Cunningham, Jas. E.	2023	Cunningham...	Pittsburgh...	275	265	255	235	220	215	210	185
Guaratotti, Tony...	2017	Hutchinson, Clarence W.	Pittsburgh...	280	270	260	245	230	220	215	185
Kopple, A. S. K. Mine...	1982	Hutchinson...	Pittsburgh...	280	270	260	245	230	220	215	185
Krusky, Gyo...	1968	Krusky...	Pittsburgh...	280	270	260	245	230	220	215	185
L. & S. Coal Co. (Geo. W.	1967	L. & S....	Pittsburgh...	280	270	260	245	230	220	215	185
Madden & Hayes, Q. R.	2009	M. & H....	Pittsburgh...	290	280	270	250	230	220	215	185
Madden, J.	1982	A. S. K. Mine...	Pittsburgh...	280	270	260	245	230	220	215	185
Robb, J.	2012	Robb & Boggio...	Pittsburgh...	280	270	260	245	230	220	215	185
Robb.			Pittsburgh...	280	270	260	245	230	220	215	185
BUTLER COUNTY											
Anderson, J. O.	2020	Anderson...	Pittsburgh...	290	280	270	250	230	215	210	185
Clemens, Edgar & Rich-	1854	Clemens...	Pittsburgh...	300	290	280	260	240	220	210	185
ard.			Pittsburgh...	300	290	280	260	240	220	210	185
Cole, Merle E.	1963	Oliphant...	Pittsburgh...	290	280	270	250	230	215	210	185
Fress & Sowers...	327	No. 2...	Pittsburgh...	290	280	270	250	230	215	210	185
Haas, William...	2021	Sterling #2...	Pittsburgh...	280	270	260	245	225	210	210	185

[F. R. Doc. 41-925; Filed, February 6, 1941; 11:46 a. m.]

[Docket No. A-226]

PART 328—MINIMUM PRICE SCHEDULE,  
DISTRICT NO. 8

ORDER OF THE DIRECTOR GRANTING PERMANENT RELIEF IN THE MATTER OF THE PETITION OF Sycamore Coal Corporation, a code member in District 8, for reclassification in size groups 8, 9 and 10

An original petition having been filed with the Bituminous Coal Division on October 12, 1940, by the Sycamore Coal Corporation, a code member in District 8, pursuant to section 4 II (d) of the Bituminous Coal Act of 1937, seeking a reclassification of the coals produced at its Buccaneer Mine (Mine Index No. 70), in Size Groups 8, 9 and 10, from "F" to "H" for shipment to all market areas; and

Pursuant to Order of November 26, 1940, a hearing having been held in this matter before a duly designated Examiner of the Division at a Hearing Room of the Division, Hotel Raleigh, Washington, D. C., on December 2, 1940, at which all interested parties were afforded an opportunity to be present, adduce evidence, cross-examine witnesses and otherwise be heard; and

The preparation and filing of a report by the Examiner having been waived, and the matter thereupon having been submitted to the Director; and

The Director having made Findings of Fact<sup>1</sup> and Conclusions of Law and having rendered an Opinion in this matter, which are filed herewith;

*It is ordered*, That § 328.21 be amended as follows: The coals produced at the Buccaneer Mine (Mine Index No. 70) of the Sycamore Coal Corporation, in Size Groups 8, 9 and 10, be and the same are hereby reclassified from "F" to "H", for shipment to all market areas.

Dated: January 6, 1941.

[SEAL]

H. A. GRAY,  
Director.[F. R. Doc. 41-954; Filed, February 7, 1941;  
11:35 a. m.]

[Docket No. A-588]

PART 330—MINIMUM PRICE SCHEDULE,  
DISTRICT NO. 10

ORDER GRANTING TEMPORARY RELIEF AND CONDITIONALLY PROVIDING FOR FINAL RELIEF IN THE MATTER OF THE PETITION OF DISTRICT BOARD NO. 10 FOR THE ESTABLISHMENT OF PRICE CLASSIFICATIONS AND MINIMUM PRICES FOR THE COALS OF MINE INDEX 700, L. &amp; S. COAL COMPANY, DISTRICT NO. 10, NOT HERETOFORE CLASSIFIED AND PRICED

A petition, pursuant to section 4 II (d) of the Bituminous Coal Act of 1937, having been duly filed with this Division by the above-named party, requesting the

establishment of price classifications and minimum prices for the coals of Mine Index 700, L. & S. Coal Company, District No. 10, not heretofore classified and priced; and

The Director having fully considered said petition and the data in support thereof, and no petitions of intervention thereto having been filed,

*Now, therefore, it is ordered*, That a reasonable showing of the necessity therefor having been made, pending final disposition of the petition in the above-entitled matter, temporary relief be, and it hereby is, granted as follows: Commencing forthwith § 330.2 is amended by adding thereto the supplement dated January 31, 1941, which is hereinafter set forth.

*It is further ordered*, That applications to stay, terminate or modify this temporary order, or pleadings in opposition to the final relief requested in said petition, may be filed within forty-five (45) days hereof, pursuant to the rules and regulations governing practice and procedure before the Bituminous Coal Division and proceedings instituted pursuant to section 4 II (d) of the Bituminous Coal Act of 1937,

*It is further ordered*, That this Order and the relief herein granted shall become final sixty (60) days from the date hereof unless the Director shall otherwise order.

Dated: January 31, 1941.

[SEAL]

H. A. GRAY,  
Director.

## TEMPORARY AND CONDITIONALLY FINAL SUPPLEMENT TO SCHEDULE OF EFFECTIVE MINIMUM PRICES FOR DISTRICT NO. 10

NOTE: The material in this Supplement is to be read in the light of the classifications, prices, instructions, exceptions and other provisions contained in Part 330, Minimum Price Schedule for District No. 10 and Supplements thereto.

## FOR ALL SHIPMENTS EXCEPT TRUCK

## § 330.2 Mine index numbers

Price group No.	Producer	Mine	Mine Index No.	Freight group No.	Shipping point, railroad
25	L & S Coal Co. (Gus Stevinor)	L & S.	700	93	Rapatee, Ill. M. & St. L.

<sup>1</sup> Mine Index No. 700 shall be included in Price Group 25 and shall take the same f. o. b. mine prices as other mines in Price Group 25, Schedule No. 1, District 10, on all size groups and for shipment to all market areas and for all uses exclusive of railroad locomotive fuel; provided, however, that these f. o. b. mine prices apply on board transportation facilities at Rapatee, Illinois. For shipments to the Cities of Peoria and Pekin, Illinois, in Market Area 38, the f. o. b. mine prices stated above shall be increased 12¢ per ton. The railroad locomotive fuel prices shall be: mine run—\$2.00; screenings—\$1.40 f. o. b. cars, Rapatee, Illinois.

[F. R. Doc. 41-924; Filed, February 6, 1941; 11:46 a. m.]

[Docket No. A-54]

PART 330—MINIMUM PRICE SCHEDULE,  
DISTRICT NO. 10

ORDER OF THE DIRECTOR GRANTING PERMANENT RELIEF IN THE MATTER OF THE PETITION OF DISTRICT BOARD NO. 10 FOR THE ESTABLISHMENT OF A PRICE FOR MINE INDEX NO. 186, DISTRICT NO. 10, IN SIZE GROUP 16

An original petition, pursuant to section 4 II (d) of the Bituminous Coal Act of 1937, having been duly filed with the Bituminous Coal Division on September 30, 1940, by District Board 10, requesting temporary and final orders establishing minimum prices f. o. b. the mine, for all shipments except truck, for Size Group 16 coals produced at the Westville Mine No. 24 (Mine Index No. 186) of the Peabody Coal Company, a code member in District 10; and

Temporary relief pending final disposition of this proceeding having been granted by Order of the Director dated November 2, 1940, for the reasons and to the extent set forth therein; and

A hearing having been held before a duly designated Examiner of the Division at a Hearing Room of the Division, Willard Hotel, Washington, D. C., on December 5, 1940, at which all interested parties were afforded an opportunity to be present, adduce evidence, cross-examine witnesses and otherwise be heard; and

The preparation and filing of a report by the Examiner having been waived, and the matter thereupon having been submitted to the Director; and

The Director having made findings of fact<sup>1</sup> and conclusions of law in this proceeding, dated February 6, 1941, which are filed herewith:

*It is ordered*, That § 330.9 be amended as follows: From and after the date hereof, the effective minimum price f. o. b. the mine for coals in Size Group 16 produced at the Westville Mine No. 24 (Mine Index No. 186), Price Group No. 15, of the Peabody Coal Company, for all shipments except truck, into Market Areas

<sup>1</sup> Not filed as part of the original document.<sup>1</sup> Not filed as part of the original document.



*Fixed-fee and reimbursement of expenditures.* In consideration for his undertakings under the contract, the Architect-Engineer shall be paid the following: A fixed fee in the amount of forty thousand nine hundred dollars (\$40,900) which shall constitute complete compensation for the Architect-Engineer's services.

Reimbursement for the following expenditures:

The actual cost of expenditures made by the Architect-Engineer under the provisions of Article IV and Article VII of this contract, subject to the provisions of paragraph 1 b. (2) above.

*Method of payment.* Payments shall be made on vouchers approved by the Contracting Officer on standard forms, as soon as practicable after the submission of statements, with original certified pay rolls, receipted bills for all expenses including materials, supplies and equipment, and all other supporting data and the amount of the Architect-Engineer's fixed fee earned.

All drawings, specifications, and blue prints are to become the property of the Government on completion of payments.

*Changes in scope of project.* The Contracting Officer may at any time, by a written order, make changes in the scope of the work contemplated by this contract.

*Termination for cause or for convenience of the Government.* The Government may terminate this contract at any time and for any cause by a notice in writing from the Contracting Officer to the Architect-Engineer.

This contract is authorized by the following laws:

Public, No. 309, 76th Congress, approved August 7, 1939.

Public, No. 703, 76th Congress, approved July 2, 1940.

FRANK W. BULLOCK,  
Major, Signal Corps,  
Assistant to the Director of  
Purchases and Contracts.

[F. R. Doc. 41-931; Filed, February 7, 1941;  
9:46 a. m.]

[Contract No. W 6942 qm-4; O. I. No. 4-41]

**SUMMARY OF COST-PLUS-A-FIXED-FEE  
CONSTRUCTION CONTRACT**

CONTRACTOR: W. HORACE WILLIAMS COMPANY, 833 HOWARD AVENUE, NEW ORLEANS, LOUISIANA

Fixed-fee: \$224,910.

Contract for: The construction of a cantonment camp including necessary buildings, temporary structures, utilities and appurtenances thereto.

Place: Near Leesville, Louisiana, in Vernon Division, Kisatchie National Forest, Louisiana.

Estimated cost of project: \$7,028,417.

The supplies and services to be obtained by this instrument are authorized by, are for the purpose set forth in, and

are chargeable to the following procurement authorities, the available balances of which are sufficient to cover the cost of the same: QM 8175 P1-3211 A 0540.068-N.

This contract, entered into this 8th day of January 1941.

*Statement of work.* The contractor shall, in the shortest possible time, furnish the labor, materials, tools, machinery, equipment, facilities, supplies not furnished by the Government, and services, and do all things necessary for the completion of the following work: Construction of a cantonment camp, including necessary buildings, temporary structures, utilities and appurtenances thereto near Leesville, Louisiana, Vernon Division, Kisatchie National Forest.

It is estimated that the total cost of the construction work covered by this contract will be approximately seven million twenty-eight thousand four hundred and seventeen dollars (\$7,028,417) exclusive of the Contractor's fee.

In consideration for his undertaking under this contract the Contractor shall receive the following:

(a) Reimbursement for expenditures as provided in article II.

(b) Rental for Contractor's equipment as provided in article II.

(c) A fixed fee in the amount of two hundred and twenty-four thousand nine hundred and ten dollars (\$224,910) which shall constitute complete compensation for the Contractor's services, including profit and all general overhead expenses.

The contracting officer may, at any time, by a written order and without notice to the sureties, make changes in or additions to the drawings and specifications, issue additional instructions, require additional work, or direct the omission of work covered by the contract.

The title to all work, completed or in the course of construction, shall be in the Government. Likewise, upon delivery at the site of the work or at an approved storage site and upon inspection and acceptance in writing by the contracting officer, title to all materials, tools, machinery, equipment and supplies for which the contractor shall be entitled to be reimbursed under Article II, shall vest in the Government.

**Payments**

*Reimbursement for cost.* The Government will currently reimburse the Contractor for expenditures made in accordance with article II upon certification to and verification by the Contracting Officer of the original signed pay rolls for labor, the original paid invoices for materials, or other original papers. Generally, reimbursement will be made weekly but may be made at more frequent intervals if the conditions so warrant.

*Rental for contractor's equipment.* Rental as provided in article II for such construction plant or parts thereof as

the Contractor may own and furnish shall be paid monthly upon presentation of proper vouchers.

*Payment of the fixed-fee.* The fixed-fee prescribed in article I shall be compensation in full for the services of the Contractor, including profit and all general overhead expenses. Ninety percent (90%) of said fixed-fee shall be paid as it accrues, in monthly installments based upon the percentage of the completion of the work as determined from estimates made and approved by the Contracting Officer. Upon completion of the work and its final acceptance, any unpaid balance of the fee shall be paid to the Contractor.

The Contractor hereby agrees that he will:

Procure and thereafter maintain such bonds and insurance in such forms and in such amounts and for such periods of time as the Contracting Officer may approve or require.

*Termination of contract by Government.* Should the Contractor at any time refuse, neglect, or fail to prosecute the work with promptness and diligence, or default in the performance of any of the agreements herein contained, or should conditions arise which make it advisable or necessary in the interest of the Government to cease work under this contract, the Government may terminate this contract by a notice in writing from the Contracting Officer to the Contractor.

This contract is authorized by the following law: Public, No. 703—76th Congress, Approved July 2, 1940.

FRANK W. BULLOCK,  
Major, Signal Corps,  
Assistant to the Director of  
Purchases and Contracts.

[F. R. Doc. 41-932; Filed, February 7, 1941;  
9:46 a. m.]

**DEPARTMENT OF THE INTERIOR.**

Bituminous Coal Division.

[Docket No. A-8]

**PETITION OF FORSYTH-CARTERVILLE COAL COMPANY TO REVISE THE EFFECTIVE MINIMUM PRICES FOR MINE INDEX 50, DISTRICT 10, IN SIZE GROUPS 1-8, INCLUSIVE, EXCEPT 7**

**MEMORANDUM OPINION AND ORDER GRANTING TEMPORARY RELIEF**

This proceeding was instituted upon an original petition filed with the Bituminous Coal Division on August 8, 1940, as amended on October 1, 1940, pursuant to section 4 II (d) of the Bituminous Coal Act of 1937, by the Forsyth-Carterville Coal Company, a code member in District 10. The petition prays for the issuance of temporary and final orders reducing by 20 cents the effective minimum prices heretofore established for the coals of the Forsyth-Carterville Mine

(Mine Index No. 50) in District 10, in Size Groups 1-6 and 8.

An informal conference concerning the prayer for temporary relief was duly held on October 4, 1940, pursuant to § 301.106 of the Rules and Regulations Governing Practice and Procedure in Proceedings Instituted Pursuant to section 4 II (d) of the Act. Represented at the conference were the original petitioner, Bell & Zoller Coal and Mining Company, et al., and Sahara Coal Company—all code members in District 10—and District Board 10. By Order dated October 9, 1940, the Director denied relief for the reasons stated therein.

Pursuant to an order of the Director, dated October 3, 1940, a hearing upon the original petition was held on October 17 and 18, 1940, before Edward J. Hayes, a duly designated Examiner of the Division, in a Hearing Room of the Division, Washington Hotel, Washington, D. C. All interested parties were afforded full opportunity to appear, present evidence, cross-examine witnesses, and otherwise be heard.

After the hearing—by motion dated October 22, 1940—the original petitioner renewed its prayer for temporary relief on the basis of the record made before the Examiner. At the hearing, the original petitioner was granted permission, and undertook, to file certain exhibits after the close of the hearing. As stated in the Report of the Trial Examiner, heretofore entered in this matter, notice that the last of these exhibits had been furnished in accordance with the petitioner's undertaking was not submitted until December 30, 1940.

The Examiner's Report was filed on January 18, 1941. Thereafter the Director notified all interested parties that affidavits might be filed up to January 28, 1941, in support of or in opposition to the original petitioner's motion of October 22, 1940, renewing its prayer for temporary relief. The notification required that any affidavits so filed be served upon all parties of record herein. Only the original petitioner filed such an affidavit. This affidavit reiterates the urgency of the need for temporary relief. The affiant states that since minimum prices became effective (October 1, 1940) Mine Index 50 has lost so much of its business that it is no longer a profitable operation. It is asserted that the mine will be forced to close shortly unless such relief is granted. The affidavit embodies a comparison of the original petitioner's shipments during the months of October, November and December 1939, with its shipments during the same months of 1940 (i. e. after the establishment of effective minimum prices). The figures show a marked decline in the shipments in each month of 1940, as contrasted with those for the same month in 1939.

In view of the original petitioner's affidavit, the lack of any affidavit opposing the motion for temporary relief, and after careful consideration of the Examiner's Report, it appears to the Director that a reasonable showing has been

made for the extension to the original petitioner of the temporary relief for which it prays, pending final disposition of this proceeding; that an adequate showing has been made of actual or impending injury in the event that such relief is not granted; and that an adequate showing has been made that the granting of such relief will not unduly prejudice other interested persons pending final disposition of this proceeding.

*Now, therefore, it is ordered*, That the temporary relief prayed for is granted, pending final disposition of this proceeding, as follows: Commencing forthwith, the effective minimum prices for the coals of Mine Index 50, District 10, in Size Groups 1 through 6 and 8, for all shipments except truck, may be reduced 20 cents per net ton for shipment into all market areas.

Notice is hereby given that applications to stay, terminate or modify the temporary relief herein granted may be filed pursuant to the Rules and Regulations Governing Practice and Procedure before the Bituminous Coal Division in Proceedings Instituted Pursuant to section 4 II (d) of the Bituminous Coal Act of 1937.

Nothing contained in the foregoing opinion and order shall be deemed to constitute a ruling or expression of the Director's views concerning the final disposition of the above-entitled matter.

Dated: February 6, 1941.

[SEAL] H. A. GRAY,  
Director.

[F. R. Doc. 41-949; Filed, February 7, 1941;  
11:34 a. m.]

[Docket Nos. A-16, A-19, A-52, A-60, A-106, A-124, A-131, A-135, A-177, A-189, and A-272]

PETITIONS OF MAJOR COAL COMPANY, ET AL.; SONMAN MINING COMPANY; MARYLAND UNION COAL CORPORATION; RILEY DOVENBARGER, ET AL., (COAL OPERATORS OF NOBLE COUNTY, OHIO); THE BIG 4 COAL COMPANY; R. G. P. COAL COMPANY (R. P. GIAVINA); GLEN SMALL, ET AL.; JONES, BRAWLEY AND SANDERS; J. D. TOWER; GAHAGAN COAL COMPANY; AND FRANK SHAFER

ORDER TO SHOW CAUSE WHY PETITIONS  
SHOULD NOT BE DISMISSED

Original petitions or other documents praying for relief under section 4 II (d) of the Bituminous Coal Act of 1937 have been filed by producers with the Bituminous Coal Division, and have received the following docket numbers: Major Coal Company, et al., District 17, A-16; Sonman Mining Company, District 1, A-19; Maryland Union Coal Corporation, District 1, A-52; Riley Dovenbarger, et al., District 4, A-60; The Big 4 Coal Company, District 14, A-106; R. G. P. Coal Company (R. P. Giavina), District 4, A-124; Glen Small, et al., District 15, A-131; Jones, Brawley and Sanders, District 13, A-135; J. D. Tower, District 3, A-177; Gahagan Coal Company, District 1, A-189; and Frank Shafer, District 3, A-272.

In Docket No. A-16 Major Coal Company, et al., requested the extension of Price Instruction and Exception No. 15 to the Walsenburg and Aguilar Subdistricts. A hearing was not set in this matter and the granting of temporary relief in A-174 concerning this subject obviated the necessity of further action in A-16;

In Docket No. A-19 the Sonman Mining Company requested a revision in the classification of the Sonman Run Mine coals. By letter of November 26, 1940, the Director informed the producer that its communication was not in proper form to be considered at a 4 II (d) petition. No further communication in this Docket has been received by the Division;

In Docket No. A52 Maryland Union Coal Corporation requested a revision of its rail prices moving from Maryland Union Mine No. 1. By letter of November 26, 1940, the Director informed the producer that its communication was not in proper form to be considered as a 4 II (d) petition. No further communication in this Docket has been received by the Division;

In Docket No. A-60 Riley Dovenbarger, et al., (Operators of Noble County, Ohio) requested that their coals be classified in the #8 vein. By letter of November 26, 1940, from the Director, the producers were notified that their communication was not in proper form to be considered as a 4 II (d) petition. No further communication in this Docket has been received by the Division;

In Docket No. A-106 The Big 4 Coal Company requested a revision in the classification of its coals in relation to the coals of certain deep mine operators. By letter dated November 13, 1940, from the Director, the producer was notified that its communication was not in proper form to be considered as a 4 II (d) petition. No further communication in this Docket has been received by the Division;

In Docket No. A-124 R. G. P. Coal Company (R. P. Giavina) requested a crushed mine run price for shipment to the City of Cleveland. By letters dated October 24 and November 2, 1940, from the Director, the producer was notified that its communication was not in proper form to be considered as a 4 II (d) petition. No further communication in this Docket has been received by the Division;

In Docket No. A-131 Glen Small, et al., requested a revision in the price classification of their low grade strip coal. By letter dated November 20, 1940, from the Director, the producer was notified that its communication was not in proper form to be considered as a 4 II (d) petition. No further communication in this Docket has been received by the Division;

In Docket No. A-135 Jones, Brawley and Sanders requested revision of its prices on all sizes of coals. By letter dated November 13, 1940, from the Director, the producer was notified that its communication was not in proper form

to be considered as a 4 II (d) petition. No further communication in this Docket has been received by the Division;

In Docket No. A-177 J. D. Tower requested price classifications for its coals. This matter was not set for hearing because the relief requested by petitioners was also requested in Docket A-187 by District Board 3 and temporary relief was granted in A-187;

In Docket No. A-189 Gahagen Coal Company requested an "F" classification for the coals in its Huskin #3, #4, and #6 Mines. By letter from the Director dated November 9, 1940, the producer was notified that its communication was not in proper form to be considered as a 4 II (d) petition. No further communication in this Docket has been received by the Division;

In Docket No. A-272 Frank Shafer requested price classifications for his coals. A hearing was not set in this docket because the relief requested by petitioner was also requested in Docket No. A-334 and temporary relief was granted in Docket No. A-334;

Apparently the petitioners in the foregoing matters have no further interest in the proceedings;

Now, therefore, it is ordered, That the petitioners be required to show cause why the foregoing proceedings should not be dismissed at a hearing before or any other officer of the Division duly designated to preside at such hearing on February 28, 1941, at 10 a. m. at a hearing room of the Division, 734 Fifteenth Street NW, Washington, D. C., at which time the Chief of the Records Section in Room 502 will advise as to the room where such hearing will be held. The dismissal of any proceedings pursuant to this Order, however, shall be without prejudice to the right of the aforesaid petitioners to file petitions with the Division in regard to the same matters pursuant to the Rules and Regulations of the Division established in connection with section 4 II (d) of the Bituminous Coal Act of 1937.

Dated: February 6, 1941.

[SEAL] H. A. GRAY,  
Director.

[F. R. Doc. 41-951; Filed, February 7, 1941;  
11:34 a. m.]

[Docket No. A-36—Part III]

PETITION OF DISTRICT BOARD NO. 11 FOR THE ESTABLISHMENT OF PRICE CLASSIFICATIONS AND MINIMUM PRICES FOR THE COALS OF THE DITNEY HILL MINE OF THE INGLE COAL COMPANY, MINE INDEX NO. 115, PURSUANT TO SECTION 4 II (d) OF THE BITUMINOUS COAL ACT OF 1937

NOTICE OF AND ORDER CONTINUING HEARING; ORDER SEVERING FROM DOCKET NO. A-36—PART II AND DESIGNATING AS DOCKET NO. A-36—PART III

By Order of the Director a hearing regarding the establishment of price classifications and minimum prices for the

Ditney Hill Mine of the Ingle Coal Company (Mine Index, No. 115), a Code Member in District 11, came on for hearing on January 29, 1941, together with certain other matters in Docket No. A-36—Part II and certain other consolidated dockets. At the hearing the original petitioner moved that the hearing as to the Ditney Hill Mine of the Ingle Coal Company be continued until a date subsequent to April 15, 1941, on the ground that the operator of this mine contemplated the installation of mechanical cleaning equipment on or about March 15, 1941, so that sufficient experience as to the coals ultimately to be regularly produced thereat would not be available before April 15, 1941. The motion was unopposed.

Now, therefore, it is ordered, That the portion of Docket No. A-36—Part II relating to the Ditney Hill Mine of the Ingle Coal Company be severed from the other matters in that docket and be designated as Docket No. A-36—Part III; and that the hearing in Docket No. A-36—Part III be continued until 10 o'clock in the forenoon of April 24, 1941, at the place heretofore designated, the offices of the Division in Washington, D. C., and before the officers previously designated to preside at said hearing.

Dated: February 6, 1941.

[SEAL] H. A. GRAY,  
Director.

[F. R. Doc. 41-947; Filed, February 7, 1941;  
11:33 a. m.]

[Docket No. A-44]

PETITION OF DISTRICT BOARD NO. 11 PURSUANT TO SECTION 4 II (d) OF THE BITUMINOUS COAL ACT OF 1937 FOR THE ESTABLISHMENT OF PRICE CLASSIFICATIONS AND MINIMUM PRICES FOR THE ENOS COAL MINING COMPANY'S SEVEN STAR MINE

NOTICE OF AND ORDER FOR CONTINUANCE OF HEARING

By Order of the Director the above-entitled matter was consolidated for hearing on January 29, 1941, together with several other matters, namely Dockets A-36—Part II, A-115, A-147, A-259, A-363, A-436, and A-440. At the consolidated hearing the original petitioner moved that the hearing in Docket A-44 be severed from the hearing on the other consolidated dockets and be continued for hearing until a date subsequent to April 1, 1941, on the ground that the mine involved therein is a new operation, still in process of development, and as to which, accordingly, there is not sufficient experience, as yet, to warrant the establishment of permanent price classifications and minimum prices. The motion was unopposed at the hearing.

Now, therefore, it is ordered, That the hearing in the above-entitled matter be continued until 10 o'clock in the forenoon of April 24, 1941, at the place heretofore

designated, the offices of the Division in Washington, D. C., and before the officers previously designated to preside therein.

Dated: February 6, 1941.

[SEAL] H. A. GRAY,  
Director.

[F. R. Doc. 41-946; Filed, January 7, 1941;  
11:33 a. m.]

[Docket No. A-164]

PETITION OF THE MALLORY COAL COMPANY FOR A CHANGE IN THE PRICE OF MINE RUN COAL (SIZE GROUP 27) FOR SHIPMENT VIA TIDEWATER TO LOWELL GAS LIGHT COMPANY, LOWELL, MASSACHUSETTS, PURSUANT TO SECTION 4 II (d) OF THE BITUMINOUS COAL ACT OF 1937

SUPPLEMENTAL MEMORANDUM AND ORDER CONCERNING TEMPORARY RELIEF

Mallory Coal Company, a code member in District 8 and petitioner in this proceeding, filed a motion on January 17, 1941, requesting that the orders dated November 23 and December 17, 1940, granting temporary relief in this proceeding, be modified so as to permit Lowell Gas Light Company to purchase 18,000 additional tons of coal (9,000 tons to be shipped prior to February 28, 1941, and 9,000 tons to be shipped during March, 1941) under the same conditions specified in the aforesaid orders. After due notice to all interested persons, an informal conference was held in Washington, D. C., on January 29, 1941, concerning this request. Petitioner and District Boards 2, 3, and 8 entered appearances at the conference. The reasons assigned in the order of November 23, 1940, for granting temporary relief are pertinent to the present application. It also appears that Lowell uses approximately 205 tons of coal per day and that its present supply of coal will be exhausted by February 22, 1941. It further appears that the uncertainties of water transportation, including the difficulty in chartering boats, and the sharp increase in the demand for high volatile coals have made it advisable to order coal approximately three weeks in advance. However, it can reasonably be expected that the Examiner will submit his Report within the near future. Any further temporary relief should be limited so as to maintain the *status quo* until that time so far as practicable. For this purpose shipment of 9,000 tons of coal in February, 1941, appears to be adequate. If Lowell's requirements make additional purchases in March desirable, petitioner can then request such further relief as may be necessary. Since it is to be expected that the Examiner will have made his Report by that time, any such further requests for temporary relief may be considered in the light of the Examiner's recommendations, as District Board 8 suggested at the informal conference.

Under all the circumstances I am of the opinion that an order should be entered extending the temporary relief granted to Mallory Coal Company in my

order of November 23, 1940, to include shipment via tidewater, prior to February, 28, 1941, of an additional 9,000 tons of coal in Size Group 27 for delivery to Lowell Gas Light Company, Lowell, Massachusetts, for retort gas use, such shipments to be subject to the terms and conditions of my order of November 23, 1940.

Accordingly, it is so ordered.

Dated: Feb. 6, 1941.

[SEAL]

H. A. GRAY,  
Director.

[F. R. Doc. 41-950; Filed, February 7, 1941;  
11:34 a. m.]

[Docket No. A-195]

PETITION OF BITUMINOUS COAL PRODUCERS  
BOARD FOR DISTRICT NO. 11 FOR REVISION  
OF THE EFFECTIVE MINIMUM PRICES FOR  
DISTRICT 11, BY PROVIDING REDUCTIONS  
IN MINE PRICES BASED UPON DIFFERENCES  
IN FREIGHT RATES AMONG DISTRICT 11  
MINES FOR SHIPMENT TO MARKET AREAS  
20, 21 AND 30-38, INCLUSIVE, PURSUANT  
TO SECTION 4 II (d) OF THE BITUMINOUS  
COAL ACT OF 1937

ORDER CLARIFYING ORDER DATED JANUARY  
31, 1941, REOPENING HEARING WITH RESPECT  
TO RELIEF PRAYED FOR UPON SHIPMENTS  
TO CHARLESTOWN, INDIANA, MARKET  
AREA 31

It appearing appropriate that the order dated and entered in the above-entitled matter on January 31, 1941, reopening the hearing to consider the original petitioner's application for relief in respect to shipments to Charlestown, Indiana, Market Area 31, should be clarified;

Now, therefore, it is ordered, That all evidence received at the hearing, heretofore reopened pursuant to said order of January 31, 1941, shall constitute a part of the record in this proceeding for all purposes, including the determination of the prayer for permanent relief.

It is further ordered, That subject to the aforementioned clarification, the aforesaid order of January 31, 1941, shall remain in full force and effect.

Notice is hereby given to all parties of record herein and to persons or entities having an interest in these proceedings that they may file within ten (10) days from the date hereof appropriate pleadings in opposition to the procedure provided in said order of January 31, 1941, as herein clarified, and requesting such other action in connection therewith as they may deem appropriate.

Dated: February 6, 1941

[SEAL]

H. A. GRAY,  
Director.

[F. R. Doc. 41-952; Filed, February 7, 1941;  
11:35 a. m.]

[Docket No. A-367]

PETITION OF WHEELING TOWNSHIP COAL  
MINING COMPANY, A PRODUCER IN DISTRICT 4, FOR REVISION OF PRICES AND  
CLASSIFICATIONS OF COAL IN SIZE GROUPS

5-7, FOR SALE IN MARKET AREAS 4, 5, 7,  
9-22, 98 AND 99 AND SIZE GROUPS 1-8,  
FOR EXPORT TO CANADIAN RAILROADS IN  
MARKET AREAS 4, 21, 98 AND 99, PURSUANT  
TO SECTION 4 II (d) OF THE BITUMINOUS COAL ACT OF 1937

[Docket No. A-488]

PETITION OF INDUSTRIAL COAL AND IRON  
COMPANY, THE HARMON CREEK COAL  
CORPORATION, AND THE JEFFERSON COMPANY  
FOR REVISION OF CLASSIFICATIONS  
AND MINIMUM PRICES FOR COALS IN SIZE  
GROUPS 5, 7, 8 AND 10, PRODUCED AT THE  
APEX, PHILLIPS, BETSY AND REXFORD  
MINES IN DISTRICT 4, PURSUANT TO SECTION  
4 II (d) OF THE BITUMINOUS COAL ACT OF 1937

[Docket No. A-520]

PETITION OF WHEELING TOWNSHIP COAL  
MINING COMPANY, A PRODUCER IN DISTRICT 4, FOR REVISION OF PRICES OF COAL  
IN SIZE GROUP 8 FOR SALE TO THE PLANT  
OF THE DUPONT COMPANY AT BUFFALO,  
NEW YORK, PURSUANT TO SECTION 4 II  
(d) OF THE BITUMINOUS COAL ACT OF 1937

#### ORDER OF CONTINUANCE

The petitioner in Docket No. A-488 having filed a written motion requesting that the consolidated hearing in the above-entitled matters, heretofore scheduled for February 10, 1941, be continued to February 14, 1941; and there being no objection to this motion,

It is ordered, That the consolidated hearing in the above-entitled matters, previously scheduled for February 10, 1941, be continued until February 14, 1941, at 10 o'clock in the forenoon. In all other respects the preceding notice of and order for consolidated hearing shall remain in full force and effect.

Dated: February 6, 1941.

[SEAL]

H. A. GRAY,  
Director.

[F. R. Doc. 41-945; Filed, February 7, 1941;  
11:33 a. m.]

[Docket No. A-591]

PETITION OF C. C. FAY, DOING BUSINESS AS  
FAY COLLIERIES COMPANY, FOR RELIEF  
RESPECTING RAILROAD FUEL FOR SHIPMENT  
TO THE PENNSYLVANIA RAILROAD

MEMORANDUM OPINION AND ORDER CONCERNING  
TEMPORARY RELIEF

The above named petitioner has filed a petition under section 4 II (d) of the Bituminous Coal Act of 1937, requesting that it be allowed to deliver coal to the storage pile of the Pennsylvania Railroad at Mingo Junction, Ohio, at the present effective minimum price of railroad fuel for rail shipment to the Pennsylvania Railroad. The petition contains a prayer for temporary relief and an informal conference was held on January 21, 1941, upon due notice to interested persons. At the conference all persons were given full opportunity to express their views concerning the temporary relief prayed. Ap-

pearances were noted at the informal conference by petitioner, District Board No. 2 and District Board No. 4.

The petitioner's Brilliant Mine (Mine Index No. 178) is a strip mine and ships approximately 98% of its tonnage by rail. The coal produced at the mine is transported by truck approximately one-half mile to a preparation plant and thereafter transported by truck to a loading dock on the Pennsylvania Railroad, approximately two and one half miles from the preparation plant. Effective minimum prices for truck shipment and for all shipments except truck have been established for this petitioner. The petitioner here requests that it be allowed to sell coal to the Pennsylvania Railroad and deliver such coal to the railroad's west bound storage yard, located at Mingo Junction, Ohio, 1,000 feet from the rail loading dock of the petitioner, at the present effective minimum prices for such coal for rail shipment. The movement to the storage pile would be entirely by truck. The representatives of the petitioner who appeared at the informal conference stated that under present arrangements an independent trucker is engaged to haul the coal from the stripping pit to the preparation plant, for which the trucker charges 10 cents per ton, and from the preparation plant to the rail loading dock, for which he also charges 10 cents per ton. The petitioner's representatives further stated that this trucker had agreed to haul the coal the additional 1,000 feet to the Pennsylvania Railroad stock pile without any increase in the transportation charge. It appears clear that this would enable the railroad to realize a definite savings over the present effective minimum price for railroad fuel from the Brilliant Mine, even though the petitioner would incur no greater expense.

The present effective minimum price for petitioner's run of mine coal sold to the Pennsylvania Railroad is \$1.95 per ton. This price is effective f. o. b. transportation facilities at the petitioner's rail loading dock only for coal which is transported via rail. If the relief here requested should be granted, the movement of the coal would be exclusively by truck. The price of run of mine coal from the Brilliant Mine for truck shipment is \$2.10 per ton. To this f. o. b. mine price the petitioner would in this instance be required to add 20 cents per ton transportation charges. Thus, the petitioner in effect asks for permission to make a truck shipment of railroad fuel at the rail price for such shipment and without adding a transportation charge.

Petitioner's representatives asserted at the informal conference that petitioner had lost a substantial amount of business with the Pennsylvania Railroad since October 1, 1940. It appears, however, that although the petitioner has not shipped any mine run coal to this railroad since October 1, 1940, in November it shipped 915 tons of nut and slack to

this road and in December, 2,745 tons of nut and slack. These shipments, viewed in proportion to the total shipments of the mine, compare favorably with the shipments made to this railroad prior to October 1, 1940. It further appears that the tonnage sold to the Pennsylvania Railroad prior to October 1, 1940, was handled through selling companies which had earned tonnage from the Pennsylvania Railroad by reason of shipping commercial tonnage over that road. Petitioner is no longer selling through these latter companies and is now endeavoring to sell direct to the Pennsylvania. The petitioner has also suffered a decline in commercial tonnage since October 1, 1940. The petitioner has not clearly shown that the decline in railroad fuel business with the Pennsylvania Railroad can be attributed to the present effective minimum prices.

District Board No. 4 opposed the granting of temporary relief to this petitioner. District Board No. 6 has filed a paper in opposition to the relief, stating that many code members in District No. 6 ship coal to the Pennsylvania Railroad at Mingo Junction, Ohio, and that the petition was not served upon District Board 6 or code members in District No. 6.

The Director has carefully considered the request for temporary relief and the views expressed and data submitted in connection therewith at the informal conference. The Director finds that petitioner has made no adequate showing of actual or impending injury in the event temporary relief is not granted, and further finds that the granting of this relief would unduly prejudice other interested persons in advance of a hearing, and that no sufficiently clear showing has been made that petitioner is entitled to the relief prayed.

*Now, therefore, it is ordered, That the temporary relief requested in this petition be denied.*

Dated: February 6, 1941.

[SEAL]

H. A. GRAY,  
Director.

[F. R. Doc. 41-948; Filed, February 7, 1941;  
11:33 a. m.]

[Docket No. A-615]

PETITION OF DISTRICT BOARD 8 FOR THE ESTABLISHMENT OF PRICE CLASSIFICATIONS AND MINIMUM PRICES FOR THE COALS OF CERTAIN MINES IN DISTRICT NO. 8 NOT HERETOFORE CLASSIFIED AND PRICED

NOTICE OF AND ORDER FOR HEARING AND ORDER GRANTING TEMPORARY RELIEF

An original petition, pursuant to section 4 II (d) of the Bituminous Coal Act of 1937, having been duly filed with this Division by the above-named party;

*It is ordered, That a hearing in the above-entitled matter be held, under the applicable provisions of said Act, and the Rules and Regulations of the Division, on March 17, 1941, at 10 o'clock a. m. (eastern standard time) in a hearing*

room of the Bituminous Coal Division, 734 Fifteenth Street NW., Washington, D. C. On such day the Chief of the Records Section in Room 502 will advise as to the room in which such hearing will be held.

*It is further ordered, That Chas. O. Fowler or any other officer or officers of the Division duly designated for that purpose shall preside at the hearing in such matter. The officers so designated to preside at such hearing are hereby authorized to conduct said hearing, to administer oaths and affirmations, examine witnesses, compel their attendance, take evidence, require the production of any books, papers, correspondence, memoranda, or other records deemed relevant or material to the inquiry, to continue said hearing from time to time, and to prepare and submit to the Director proposed findings of fact and conclusions and the recommendation of an appropriate order in the premises, and to perform all other duties in connection therewith authorized by law.*

Notice of such hearing is hereby given to all parties herein and to persons or entities having an interest in these proceedings and eligible to become parties herein. Any person desiring to be admitted as a party to this proceeding may file a petition of intervention in accordance with the Rules and Regulations of the Bituminous Coal Division for proceedings instituted pursuant to section 4 II (d) of the Act, setting forth the facts on the basis of which the relief in the original petition is supported or opposed or on the basis of which other relief is sought. Such petitions of intervention shall be filed with the Bituminous Coal Division on or before March 10, 1941.

The matter concerned herewith is in regard to the establishment of price classifications and minimum prices for the coals of certain mines hereinafter named, located in District No. 8, for which coals price classifications and minimum prices have not heretofore been established.

All persons are hereby notified that the hearing in the above-entitled matter and any orders therein may concern, in addition to the matters specifically alleged in the petition, other matters necessarily incidental and related thereto, which may be raised by amendment of the original petition, petitions of interveners, or otherwise, or which may be necessary corollaries to the relief, if any, granted on the basis of said original petition.

*It is further ordered, That a reasonable showing of the necessity therefor having been made, pending final disposition of the petition in the above-entitled matter, temporary relief be, and it hereby is, granted as follows: Commencing forthwith, the coals referred to in the Temporary Supplements, annexed hereto and made part hereof, shall be subject to minimum prices as provided therein.*

Notice is hereby given that applications to stay, terminate or modify the temporary relief herein granted may be

filed pursuant to the Rules and Regulations Governing Practice and Procedure Before the Bituminous Coal Division in proceedings instituted pursuant to section 4 II (d) of the Bituminous Coal Act of 1937.

Dated: February 6, 1941.

[SEAL]

H. A. GRAY,  
Director.

[F. R. Doc. 41-941; Filed, February 7, 1941;  
11:32 a. m.]

[Docket No. 1483-FD]

IN THE MATTER OF HARRY OATES,  
DEFENDANT

ORDER CANCELING HEARING

The above-entitled proceedings having been concluded by the entry of a cease and desist order against the defendant pursuant to stipulation;

*It is ordered, That the hearing previously scheduled for February 20, 1941, at Madisonville, Kentucky, is hereby canceled.*

Dated: February 6, 1941.

[SEAL]

H. A. GRAY,  
Director.

[F. R. Doc. 41-943; Filed, February 7, 1941;  
11:32 a. m.]

[Docket No. 1486-FD]

IN THE MATTER OF C. H. BOWMAN,  
DEFENDANT

ORDER CANCELING HEARING

The above-entitled proceedings having been concluded by the entry of a cease and desist order against the defendant pursuant to stipulations;

*It is ordered, That the hearing previously scheduled for February 20, 1941, at Madisonville, Kentucky, is hereby canceled.*

Dated: February 6, 1941.

[SEAL]

H. A. GRAY,  
Director.

[F. R. Doc. 41-942; Filed, February 7, 1941;  
11:32 a. m.]

[Docket No. 1504-FD]

IN THE MATTER OF THE APPLICATION OF THE CENTRAL COOPERATIVE WHOLESALE TO BE REGISTERED AS A REGISTERED DISTRIBUTOR

ORDER OF CONTINUANCE

A continued hearing in the above-entitled matter having been scheduled for February 17, 1941, at 10 a. m. in a hearing room of the Bituminous Coal Division, 734 Fifteenth Street NW., Washington, D. C.

*It is ordered, That the above hearing is further continued to March 3, 1941, at the same time and place.*

Dated: February 6, 1941.

[SEAL]

H. A. GRAY,  
Director.

[F. R. Doc. 41-944; Filed, February 7, 1941;  
11:32 a. m.]

## DEPARTMENT OF COMMERCE.

## Civil Aeronautics Authority.

[Docket Nos. 405, 406, 443, 4571]

APPLICATIONS OF ALASKA AIR LINES, INC.,  
AND PACIFIC ALASKA AIRWAYS, INC.

## NOTICE OF HEARING

In the matter of the applications of Alaska Air Lines, Inc., and Pacific Alaska Airways, Inc., for a certificate of public convenience and necessity and amendment of existing certificates of public convenience and necessity under section 401 of the Civil Aeronautics Act of 1938, as amended; and in the matter of the applications of Alaska Air Lines, Inc., for approval of certain interlocking relationships under section 409 of the Civil Aeronautics Act of 1938, as amended.

The above-entitled proceeding, being the applications of Alaska Air Lines, Inc., for a certificate of public convenience and necessity authorizing air transportation between Juneau and Anchorage, Alaska, via Yakutat, Cordova and Valdez, and for approval of certain interlocking relationships, and the applications of Pacific Alaska Airways, Inc., for amendment of its existing certificates of public convenience and necessity as to authorize service on a flag stop basis to and from Burwash Landing, Canada, and Tanana Crossing, Alaska, and for authorization to provide service to Anchorage, Alaska, by extending applicant's present route between Whitehorse, Canada, and Fairbanks, Alaska, from Tanana Crossing, is hereby assigned for public hearing on February 25, 1941, 10 o'clock a. m. (Eastern Standard Time) at the Mayflower Hotel, Connecticut Ave., and DeSales Street NW, Washington, D. C., before Examiner William J. Madden.

Dated Washington, D. C., February 4, 1941.

By the Civil Aeronautics Board.

[SEAL] THOMAS G. EARLY,  
Secretary.

[F. R. Doc. 41-929; Filed, February 7, 1941;  
9:46 a. m.]

[Docket Nos. 333, 543]

## CHICAGO AND SOUTHERN AIR LINES, INC.

## NOTICE OF HEARING

In the matter of the compensation for the transportation of mail by aircraft, the facilities used and useful therefor, and the services connected therewith, of Chicago and Southern Air Lines, Inc., and in the matter of the petition of Chicago and Southern Air Lines, Inc., for an order fixing and determining the fair and reasonable rates of compensation for the transportation of mail by aircraft, the facilities used and useful therefor, and the services connected therewith over

Route No. 53, under section 406 of the Civil Aeronautics Act of 1938, as amended.

The above-entitled proceedings, involving the determination of fair and reasonable rates of compensation for the transportation of mail by aircraft, the facilities used and useful therefor, and the services connected therewith by Chicago and Southern Air Lines, Inc., are hereby assigned for public hearing on February 12, 1941, 10 o'clock a. m. (Eastern Standard Time) at the Willard Hotel, 14th Street and Pennsylvania Avenue NW, Washington, D. C., before Examiner J. Francis Reilly.

Dated Washington, D. C., February 5, 1941.

By the Civil Aeronautics Board.

[SEAL] THOMAS G. EARLY,  
Secretary.

[F. R. Doc. 41-930; Filed, February 7, 1941;  
9:46 a. m.]

## FEDERAL TRADE COMMISSION.

[Docket No. 4070]

## IN THE MATTER OF THE COAL CARBURETOR COMPANY, A CORPORATION, AND THORNTON W. PRICE, INDIVIDUALLY, AND AS PRESIDENT OF SAID CORPORATION

## ORDER APPOINTING TRIAL EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 3d day of February, A. D. 1941.

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U.S.C.A., section 41),

*It is ordered*, That John W. Addison, a trial examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

*It is further ordered*, That the taking of testimony in this proceeding begin on Monday, February 17, 1941, at ten o'clock in the forenoon of that day (eastern standard time) in Room 30, United States Court House, Foley Square, New York, New York.

Upon completion of testimony for the Federal Trade Commission, the trial examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The trial examiner will then close the case and make his report upon the evidence.

By the Commission.

[SEAL] OTIS B. JOHNSON,  
Secretary.

[F. R. Doc. 41-934; Filed, February 7, 1941;  
11:21 a. m.]

[Docket No. 4101]

## IN THE MATTER OF HIRAM CARTER, INC., A CORPORATION, AND S. FRED GRIFFIN, AN INDIVIDUAL

## ORDER APPOINTING TRIAL EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 3rd day of February, A. D. 1941.

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U.S.C.A., section 41),

*It is ordered*, That John W. Addison, a trial examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

*It is further ordered*, That the taking of testimony in this proceeding begin on Thursday, February 20, 1941, at ten o'clock in the forenoon of that day (eastern standard time) in Room 30, United States Court House, Foley Square, New York, New York.

Upon completion of testimony for the Federal Trade Commission, the trial examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The trial examiner will then close the case and make his report upon the evidence.

By the Commission.

[SEAL] OTIS B. JOHNSON,  
Secretary.

[F. R. Doc. 41-936; Filed, February 7, 1941;  
11:21 a. m.]

[Docket No. 4439]

## IN THE MATTER OF H. W. LAY &amp; COMPANY, INC.

## ORDER APPOINTING TRIAL EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 3d day of February, A. D. 1941.

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U.S.C.A., section 41),

*It is ordered*, That John L. Hornor, a trial examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

*It is further ordered*, That the taking of testimony in this proceeding begin on Wednesday, February 12, 1941, at ten

o'clock in the forenoon of that day (central standard time) in Room 226, Federal Building, Chattanooga, Tennessee.

Upon completion of testimony for the Federal Trade Commission, the trial examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The trial examiner will then close the case and make his report upon the evidence.

By direction of the Commission.

[SEAL]

JOE L. EVINS,  
Acting Secretary.

[F. R. Doc. 41-935; Filed, February 7, 1941;  
11:21 a. m.]

[Docket No. 4435]

IN THE MATTER OF COTY, INC.

ORDER APPOINTING TRIAL EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 5th day of February, A. D. 1941.

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under Acts of Congress (38 Stat. 717; 15 U.S.C.A., section 41), and (49 Stat. 1526, U.S.C.A., section 13, as amended),

*It is ordered*, That John L. Hornor, a trial examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

*It is further ordered*, That the taking of testimony in this proceeding begin on Wednesday, February 12, 1941, at ten o'clock in the forenoon of that day (eastern standard time) in Room 500, 45 Broadway, New York, New York.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The trial examiner will then close the case and make his report upon the evidence.

By the Commission.

[SEAL]

OTIS B. JOHNSON,  
Secretary.

[F. R. Doc. 41-937; Filed, February 7, 1941;  
11:21 a. m.]

[File No. 21-362]

IN THE MATTER OF PROPOSED TRADE PRACTICE RULES FOR THE BEAUTY AND BARBER EQUIPMENT AND SUPPLIES INDUSTRY

NOTICE OF HEARING, AND OF OPPORTUNITY TO PRESENT VIEWS, SUGGESTIONS, OR OBJECTIONS

At a regular session of the Federal Trade Commission held at its office in the

City of Washington, D. C., on the 6th day of February, A. D. 1941.

Opportunity is hereby extended by the Federal Trade Commission to any and all persons, partnerships, corporations, associations, groups, or other parties affected by or having an interest in the proposed trade practice rules for the Beauty and Barber Equipment and Supplies Industry to present to the Commission, orally or in writing, their views concerning such rules, including such pertinent information, suggestions, or objections, if any, as they desire to submit. For this purpose they may, upon application to the Commission, obtain copies of the proposed rules. Matters submitted in writing should be filed with the Commission not later than February 28, 1941. Opportunity for oral hearing and presentation will be afforded at 10 a. m., February 28, 1941, in Room 332, Federal Trade Commission Building, Constitution Avenue at Sixth Street, Washington, D. C., to any such persons, partnerships, corporations, associations, groups or other parties as may desire to appear and be heard. After giving due consideration to all matters presented concerning the proposed rules, the Commission will proceed to their final consideration.

By the Commission.

[SEAL]

OTIS B. JOHNSON,  
Secretary.

[F. R. Doc. 41-938; Filed, February 7, 1941;  
11:22 a. m.]

SECURITIES AND EXCHANGE COMMISSION.

[File No. 1-627]

IN THE MATTER OF A. HOLLANDER & SON, INC., CAPITAL STOCK \$5 PAR VALUE

ORDER WITHDRAWING REGISTRATION UNLESS REGISTRANT SATISFIES SPECIFIED CONDITIONS WITHIN 90 DAYS

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 6th day of February, A. D. 1941

The Commission having instituted a proceeding pursuant to section 19 (a) (2) of the Securities Exchange Act of 1934, as amended, to determine whether registration of the capital stock, \$5.00 par value, of A. Hollander & Son, Inc., on the New York Stock Exchange, should be suspended or withdrawn; and

After appropriate notice and opportunity for hearing, counsel having stipulated the relevant facts; briefs having been filed and argument having been heard by the Commission; the record in this matter having been duly considered; and the Commission having this day filed its Findings and Opinion;

*It is ordered*, That the registration of the capital stock, \$5.00 par value, of A. Hollander & Son, Inc., shall be withdrawn

ninety days after the date hereof: *Provided, however*, That, if registrant, within said ninety-day period, shall:

(a) file amendments to its registration statement and annual reports which will make the public record accurate and complete;

(b) mail a copy of the Commission's Findings and Opinion herein to each of its stockholders of record; and

(c) undertake, in the future, to file with the Commission and with the New York Stock Exchange, as documents available to the public, quarterly reports summarizing the material transactions during the preceding three months between the registrant, on the one hand, and its officers and directors and the controlled corporations of such officers and directors, on the other, and, in its annual reports to stockholders, to summarize all such transactions taking place during the preceding year;

and the Commission shall by order declare that the registrant has complied with the procedure outlined above, this order shall be of no effect and this proceeding shall be dismissed without prejudice, however, to future proceedings should any of the terms of this order be violated or on any other proper ground.

By the Commission.

[SEAL]

FRANCIS P. BRASSOR,  
Secretary.

[F. R. Doc. 41-958; Filed, February 7, 1941;  
11:44 a. m.]

[File No. 812-77]

IN THE MATTER OF GEORGE W. HELME COMPANY

NOTICE OF AND ORDER FOR HEARING

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 6th day of February, A. D. 1941.

An application having been duly filed by the above named applicant under and pursuant to the provisions of section 3 (b) (2) of the Investment Company Act of 1940, for an order declaring it to be excepted from the provisions of said Investment Company Act on the ground that the applicant is primarily engaged in a business other than that of investing, reinvesting, owning, holding or trading in securities;

*It is ordered*, That a hearing on the matter of the application of the above named applicant under and pursuant to section 3 (b) (2) of the Investment Company Act of 1940 be held on February 25, 1941 at 10:30 o'clock in the forenoon of that day at the Securities and Exchange Building, 1778 Pennsylvania Avenue Northwest, Washington, D. C. On such day the hearing room clerk in Room 1102A will advise the interested parties where such hearing will be held.

*It is further ordered,* That William W. Swift, Esq., or any officer or officers of the Commission designated by it for that purpose shall preside at such hearing on such application. The officer so designated to preside at any such hearing is hereby authorized to exercise all the powers granted to the Commission under

sections 41 and 42 of the Investment Company Act of 1940 and to trial examiners under the Commission's Rules of Practice.

Notice of such hearing is hereby given to the above named applicant and to any other person or persons whose participation in such proceedings may be in the

public interest or for the protection of investors.

By the Commission.

[SEAL]

FRANCIS P. BRASSOR,  
*Secretary.*

[F. R. Doc. 41-957; Filed, February 7, 1941;  
11:44 a. m.]